

beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

#### Drafting Information

The principal persons involved in drafting this document are Lieutenant P.C. Barnett, Eleventh Coast Guard District, Aids to Navigation and Waterways Management Branch, Project Officer, and Lieutenant R.J. Barber, Eleventh Coast Guard District Legal Office, Project Attorney.

#### Background and Purpose

The Isthmus Cove Anchorage Grounds (the Anchorage) were codified by final rulemaking CGFR 67-46, published in 32 FR 17728 (December 12, 1967). The Wrigley Marine Science Center (the Center) was built during that same year. The Center's primary function was and continues to be to provide an environment that facilitates scientific investigation. It was intentionally located in close proximity to a virtually undisturbed marine environment to allow researchers the opportunity to conduct long-term underwater investigations of sea life under conditions where human influences are minimal.

In 1988, the state of California established the Wrigley Marine Science Center Marine Life Refuge (the Refuge), formerly known as the Catalina Marine Science Center Marine Life Refuge, near the Center. A portion of the waters of the Refuge is located within the waters of the Anchorage.

In order to protect and preserve the delicate ecosystem of the Refuge and to prevent damage caused by anchors to the valuable scientific equipment being used to conduct research within the Refuge, the state of California, as part of the original legislation establishing the Refuge, prohibits unauthorized anchoring and mooring within the Refuge.

#### Discussion of Proposed Regulations

The proposed amendment to the Isthmus Cove Anchorage Grounds regulation seeks to reduce the size of the Anchorage by removing from it the waters located in Fisherman Cove and those waters shoreward from a line extending approximately 50 yards from shore connecting Blue Cavern Point to Fisherman Cove. In order to reduce confusion among recreational and commercial mariners, and in order to enhance the safety of navigation in support of the efforts of the State of California, the Coast Guard proposes to

exclude the area encompassed by the Marine Life Refuge from the Anchorage Grounds.

The proposed amendment to the regulation also describes the Anchorage more accurately by using coordinates in addition to making reference to well-known landmarks.

#### Regulatory Evaluation

This proposal is not a significant regulatory action under Section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the Department of Transportation regulatory policies and procedures is unnecessary.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal would have significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2

of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation.

#### List of Subjects in 33 CFR Part 110

Anchorage grounds.

#### Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, as follows:

#### PART 110—ANCHORAGE REGULATIONS

1. The authority citation for Part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g). Section 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.216 is amended by revising paragraph (a)(2) to read as follows:

#### § 110.216 Pacific Ocean at Santa Catalina Island, CA

(a) \* \* \*

(2) *Isthmus Cove*. All the waters bounded by a line connecting the following coordinates, beginning at 33°-27'-12" N, 118°-30'-05" W (the promontory known as Lion Head); thence southeast to 33°-26'-55.5" N, 118°-28'-44" W; thence west-southwest to 33°-26'-50" N, 118°-29'-08" W; thence southwest to 33°-26'-39" N, 118°-29'-19" W; thence along the shoreline returning to the point of origin, excluding the following-described non-anchorage area: an area 300 feet wide (170 feet west and 130 feet east of the centerline of the Catalina Island Steamship Line pier), extending 1600 feet from the root of the pier, and an area 150 feet seaward of the shoreline extending approximately 1500 feet east and 1500 feet northwest of the centerline of said pier.

\* \* \* \* \*

Dated: January 19, 1995.

**D.D. Polk,**

*Captain, U.S. Coast Guard Commander, Eleventh Coast Guard District, Acting.*

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#### 33 CFR Parts 154 and 156

[CGD 93-056]

RIN 2115-AE59

#### Facilities Transferring Oil or Hazardous Materials in Bulk

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the regulations covering facilities transferring oil or hazardous material in bulk. These revisions are intended to update and clarify the current regulations. The revisions should result in regulations that are more effective in providing a high level of safety and environmental protection.

**DATES:** Comments must be received on or before May 24, 1995.

**ADDRESSES:** Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 93-056), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Jonathan C. Burton, Marine Environmental Protection Division, (202) 267-6714.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 93-056) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8 by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public

hearing by writing to the Marine Safety Council at the address under

**ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

**Drafting Information**

The principal persons involved in drafting this document are Lieutenant Jonathan C. Burton, Project Manager, Marine Environmental Protection Division and Ms. Helen Boutrous, Project Counsel, Office of Chief Counsel.

**Background and Purpose**

Until 1990, the regulations covering the transfer of products between vessels and facilities capable of transferring oil or hazardous materials in bulk to or from a vessel with a capacity of 250 barrels or more were contained in two different parts of the Code of Federal Regulations. Facilities transferring oil in bulk were covered by 33 CFR part 154, while those transferring hazardous materials in bulk were covered by 33 CFR part 126 (Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities). The Coast Guard consolidated and revised the provisions into part 154 (Facilities Transferring Oil or Hazardous Material in Bulk) in a final rule published on September 4, 1990 (55 FR 36252). Since that time, numerous comments have been received from Coast Guard personnel and industry about problems in working with part 154. Coast Guard personnel and industry advisory groups have provided numerous suggestions for improving part 154. In 1992, a Coast Guard task force, chartered as the result of a General Accounting Office report on the Coast Guard's facility inspection program, recommended a number of changes to 33 CFR part 154. Based on the task force's recommendations, the Coast Guard decided to initiate a rulemaking project to review all of 33 CFR part 154. A solicitation was sent to all Coast Guard Marine Safety Officers and Captains of the Ports asking for assistance in identifying problem areas. Every unit solicited responded with comments identifying changes to provisions that, if adopted, would greatly improve their facility oversight and enforcement operations, and thereby enhance industry's ability to comply with the regulations.

**Discussion of Proposed Changes***Section 154.100 Applicability*

There has been confusion regarding the applicability of the regulations in 33 CFR part 154. Particularly, there has been confusion over whether applicability is determined by the capacity of the facility or the capacity of the vessel. The proposed rule seeks to clarify that the total capacity of the vessel is the determining factor. Part 154 applies to facilities transferring oil or hazardous materials to vessels capable of carrying 250 barrels or more of oil or hazardous materials, or a combination of oil types, or hazardous materials, or both.

Also, a new paragraph is proposed to be added to the applicability section which would specify all of the requirements that are applicable to mobile transfer facilities. Both industry and Coast Guard personnel have indicated that such a provision would be helpful. Inclusion of this paragraph should eliminate confusion in determining which requirements are applicable to mobile facilities.

Included in the proposed list of requirements that would apply to mobile facilities are certain safety requirements found in § 154.735 that do not currently apply to mobile facilities. These include standards for access to the mobile facility by firefighting personnel, proper storage of hazardous material, sufficient fire extinguishers, rubbish containment, protective equipment, heating equipment placement, electrical wiring and three way warning signs. Additionally, this NPRM proposes to subject mobile facilities to the "person in charge requirements" of 33 CFR 154.710. Comments on the cost of applying these regulations to mobile facilities are requested.

*Section 154.105 Definitions*

A definition for "caretaker status", and revisions to the definitions of "facility", and "transfer" are proposed.

"Caretaker status" is proposed to be defined as a facility that is free of oil or hazardous material, certified as gas free and where specified piping has been blanked off and the letter of adequacy has been suspended by the COTP.

The proposed revisions to the definition of "facility" clarify that tank cleaning and stripping facilities, and floating docks or barges used as part of the transfer platform, are considered to be within the definition of facility. The proposed rule also makes it clear that barges and other floating structures used to support an intricate part of the facility's operation, such as piping for

the facility, are to be considered part of the facility.

Finally, the proposed revision to the definition of "transfer" would specify that a transfer begins once the transfer hose is connected, thereby requiring owners and operators to comply with the safety requirements pertaining to the transfer of oil or hazardous material at an early stage of the process. Safety measures at this stage are crucial because as soon as a transfer hose is connected, there is a risk of oil or hazardous material being inadvertently transferred, resulting in a spill. Therefore, hose connections should be made only while complying with the supervisory and other requirements specified in part 154.

#### *Section 154.107 Alternatives*

This section is proposed to be revised to provide that the Captain of the Port (COTP) will take final approval or disapproval action within 60 days, rather than 30 days, of a request from a facility operator to use alternate methods, procedures or equipment standards from those required by part 154. The additional 30 days will allow more time for the COTP to thoroughly evaluate requests. Every effort will be made to respond to requests in less than 60 days if possible.

#### *Section 154.110 Letter of Intent*

This NPRM proposes to require that the facility owner's name, address, and telephone number be included in the letter of intent required by § 154.110. Currently, this information is required of the facility operator only. This additional information will be of great assistance in determining and locating the responsible party during a spill or other emergency.

#### *Section 154.310 Operations Manual: Contents*

This NPRM proposes to require that a map of the facility, drawn to scale, be included in the operations manual. In the past there has been confusion among industry and enforcement personnel over the boundaries of various facilities subject to regulation. The required map would depict the physical boundaries of the facility and include all structures, such as wharfs, and would indicate which piping in the facility is subject to the testing requirements of 33 CFR 156.170(c)(4). This revision would assist Coast Guard and industry personnel in more readily determining which pipes are subject to Coast Guard inspection as opposed to those regulated by the Environmental Protection Agency. The accuracy of the facility operator's determinations as to which pipes are

subject to Coast Guard inspection under § 156.170 would be reviewed by the COTP when the operations manual is submitted to the COTP for a review of adequacy under § 154.300. This revision would help the Coast Guard and facility owners and operators ensure that all piping subject to the regulations is properly tested.

The proposed rule seeks to simplify for industry the information retention requirements of part 154. Currently, § 154.310(a)(5) requires facility operators to retain specified information about the products handled by the facility. This NPRM proposes that Material Safety Data Sheets be retained rather than the information currently required by § 154.310(a)(5). This revision would provide the Coast Guard access to information of equivalent value, while providing an easier method of recordkeeping for facility operators.

In the past there has been confusion regarding the appropriate state and local personnel to contact in the event of a spill or other emergency. Therefore, this NPRM proposes to add a requirement that the names and telephone numbers of state and local officials be included in the list of names and addresses currently required under § 154.310(a)(7). This would require the facility owners to determine who the appropriate state and local officials to contact are in advance, so that time will not be wasted in the event of an emergency. Also, this NPRM proposes to require that the name and telephone number of the "qualified individual" listed in the facility response plan required by 33 CFR 154.1026 be included. This is also vital information in the event of an emergency.

Currently, § 154.310(a)(16) requires that the operations manual include the maximum relief valve setting for each transfer system. This rule proposes that the Maximum Allowable Working Pressure (MAWP) also be recorded. This revision is necessary because of proposed changes to § 154.500 which would no longer require that each hose assembly have a MAWP of 150 pounds per square inch. Recording of the MAWP will ensure that tests conducted under 33 CFR 156.170 are conducted using the correct MAWP for the transfer piping system being tested.

#### *Section 154.320 Operations Manual: Amendment*

Currently, under § 154.320(a)(1), facility operators have 14 days to respond to a notice from the COTP regarding any inadequacies in the operations manual. Industry has indicated that 14 days is an insufficient amount of time to respond to a COTP's

request for amendments to the operations manual. This NPRM proposes a 45 day response period starting from the date of the COTP's notice. Also, § 154.320(a)(1) provides that the COTP shall notify the facility operator of any amendment required or adopted, and that such amendment becomes effective 30 days after the facility operator receives notice. This NPRM proposes to delay the effective date of such amendments until 60 days after notification of the facility operator.

#### *Section 154.500 Hose Assemblies*

In the past there has been confusion regarding the maximum allowable working pressure (MAWP) to be used for the testing requirements in 33 CFR 156.170. Part of this confusion was caused by the fact that a minimum (MAWP) was specified for hose assemblies. This forced industry to test their hose assemblies, and usually their piping systems, at a minimum of 225 pounds per square inch. It is more reasonable for the MAWP to be based on the actual design of the transfer system, rather than a pre-specified number. The proposed changes to this section would eliminate a minimum burst pressure and MAWP for hose assemblies. With this revision, industry could develop their tests and inspection criteria based on the actual needs of their systems, and avoid unnecessary expense testing to a level higher than that of their systems' designs.

#### *Section 154.520 Closure Devices*

Under the current regulations, industry must have enough valves to blank off a transfer hose, even when it is stored, unless it is new and unused. The proposed change would clarify that such hoses must be blanked off during transfer. Also, the revisions would allow for treating a hose that is cleaned of product in the same manner as a new, unused hose.

#### *Section 154.530 Small Discharge Containment*

Experience reveals that many small spills occur during the coupling and uncoupling of transfer hoses, and from coupled joints. Present regulations require containment around manifold areas, but do not specifically require containment around those areas where coupled hoses may cross or are uncoupled or coupled. Therefore, a paragraph is proposed to be added to § 154.530 that would require that fixed or portable containment be placed under each hose connection during coupling, uncoupling, and transfer. Comments on the viability and costs of this proposed revision are solicited.

#### *Section 154.540 Discharge Removal*

The current regulations require that facilities have a means to safely and quickly remove oil and hazardous material from the containment required by § 154.530. To provide greater specificity, this NPRM proposes that facilities must have a means to remove discharged oil or hazardous material from the containment within one hour.

#### *Section 154.545 Discharge Containment Equipment*

This NPRM proposes to add a paragraph to § 154.545 that would specify that equipment required to be retained under this section may be used in the planning requirements of the facility response plan required by subpart F.

#### *Section 154.560 Communications*

This NPRM proposes to revise § 154.560 to require that only intrinsically safe radios that have been marked accordingly by the manufacturer of the radio may be used to meet the requirements of § 154.560(a). This requirement would help to ensure that appropriate communications equipment is used. Also, the references included in § 154.560(e) regarding the definition of "intrinsically safe" are incorrect. Instead of the current references, the NPRM requires that a qualified testing laboratory, such as Underwriters Laboratories, certify that a radio is intrinsically safe and is marked accordingly. In most cases, radios used by facilities already meet the requirements of this proposed regulation.

#### *Section 154.710 Persons in Charge: Designation and Qualification*

Numerous spills have been caused by the inattention or poor training of the person in charge at some facilities. Therefore, it is proposed that the facility operator must certify that the person in charge has completed a training program that has been approved by the Captain of the Port, in accordance with revised § 154.710(c) and (d). This revision is intended to ensure that the person in charge has received the basic training necessary to properly operate transfer equipment and has a thorough understanding of the hazards involved in a transfer of oil or hazardous materials, and what his duties are relative to that operation in the event of emergency. The proposed requirement would, however, allow facility operators the flexibility to develop their own training program, appropriate to the needs and operation of their facility. The list of those persons certified would be kept with the operations manual.

Comments are solicited from industry on what specific basic training requirements should be required for the person in charge, what established industry training already exists to ensure their competence, and the cost of such training.

Additionally, there has been confusion as to where the person in charge is to be during the transfer, as required by 33 CFR 156.120(t)(1). This NPRM adds the requirement that the person in charge is to be in visual sight of the transfer system from the time a hose connection is completed, until the time when the connection is broken.

Given the importance of the person in charge, it is also proposed that this section apply to mobile transfer facilities.

#### *Section 154.735 Safety Requirements*

This NPRM proposes that § 154.735 be revised to abolish the current "hot work permit" program which is cumbersome and obsolete. Under the current program a permit must be obtained from the Captain of the Port, prior to conducting welding or hot work at a facility. A new provision is proposed to be added which would place responsibility for the safety of all hot work at the facility, and the vessels moored to it, on the facility's owner and operator.

Currently, § 154.735(s) provides that tank cleaning or gas freeing operations conducted by the facility on vessels carrying oil residues or mixtures must be conducted in accordance with specified sections of the International Safety Guide for Oil Tankers and Terminal(s) (ISGOTT). Experience with use of the ISGOTT standards has revealed that, particularly in reference to barges, some of the ISGOTT provisions are problematic. A provision would be added to allow facility owners or operators to request authorization from the COTP, in accordance with § 154.107, to follow an alternative method of compliance based on sound industry practices. An example of guidelines that could be approved for use by the COTP are the "Safety Guidelines for Tank Vessel Cleaning Facilities", First Ed., 1992, developed by the American Waterways Shipyard Conference. Copies of these guidelines may be obtained from American Waterways Shipyard Conference, 1600 Wilson Blvd., Suite 1000, Arlington, VA 22209.

The current regulations are vague regarding security at a facility. The proposed rule would require that access to the marine transfer area from the shoreside or waterside is limited to facility personnel, delivery and service

personnel, Coast Guard personnel, and other authorized persons. It further proposes that these personnel have identification. These parameters are similar to those found in 33 CFR 127.703 and therefore should be better understood by both industry and inspection personnel.

Currently part 154 does not prohibit smoking. This NPRM would propose to limit smoking in the same manner as the provisions of 33 CFR 126.15(b). Most facilities already follow this standard.

This NPRM proposes to require that three way warning signs, similar to those required under 33 CFR 126.15(o)(2)(i), be displayed on the facility at the point of transfer, without obstruction, at all times on a fixed facility and during coupling, transfer operation, and uncoupling on a mobile facility. Many of the facilities previously covered by part 126 still have these warning signs. Both industry and Coast Guard personnel have suggested that these signs would be valuable for all facilities covered by 33 CFR part 154.

#### *Section 154.740 Records*

One of the primary goals of this rulemaking is to consolidate documents and descriptions of procedures and tests required by part 154 into one centralized location that would greatly facilitate inspections and ensure that this information is immediately available in the event of a spill or other emergency. Therefore, this NPRM proposes that the records required by this section, such as the Letter of Intent, Letter of Adequacy, person-in-charge qualifications, and the piping and hose tests be maintained in the same location as the operations manual but not as a part of the operations manual.

#### *33 CFR Part 156*

Conforming changes to certain sections of 33 CFR part 156 have been proposed as discussed below to ensure consistency with the changes proposed for part 154.

#### *Section 156.120 Requirements for Transfer*

This section is proposed to be revised to explicitly state that a transfer begins when a connection of any transfer hose or loading arm is made. At that point, all elements required to conduct a transfer must be in place. This revision is consistent with the proposed definition of "transfer" in § 154.105 and is intended to prevent an accidental spill from the transfer of oil or hazardous material before all protections required during a transfer are in place.

### *Section 156.160 Supervision by Person in Charge*

To conform with the training requirements set forth in § 154.710, a provision is proposed to be added to § 156.160 to clarify that the person in charge must visually monitor the transfer, throughout the transfer.

### *Section 156.170 Equipment Tests and Inspections*

Revisions are proposed to this section to complement the testing records required to be kept with the operations manual by § 154.720.

The revisions clarify that a static liquid pressure test is acceptable, and the test medium for transfer hoses is not required to be water. Those facilities in a caretaker status or that only transfer infrequently will now be required to test 30 days before their first transfer occurring more than one year from their last tests and inspections. This inspection schedule will allow a reduction in costs for facilities that transfer infrequently while still providing an appropriate level of environmental protection.

It would also be made clear that the COTP has the authority to allow alternative methods of compliance to the testing requirements in this section.

### **Regulatory Evaluation**

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT has been prepared and is available in the docket for inspection or copying where indicated under **ADDRESSES**. The Evaluation is summarized as follows.

It is estimated that 2591 fixed and 539 mobile marine transportation related facilities will be affected by these regulations. Many of the proposed revisions are clarifying changes that will pose no additional costs on facilities presently in compliance with the regulations. For example, certain information previously kept separately would now be required to be kept in the same location as the operations manual but requires little additional information not already prescribed by some other regulation. Since this information is not required to be included in the

operations manual no additional cost is incurred for review by the Coast Guard or the facility.

There are some new requirements associated with this NPRM. These requirements include a map showing the boundaries of the Coast Guard's jurisdiction (§ 154.310(a)(2)); additional requirements for mobile transfer facilities including standards for access by firefighting personnel, proper storage of hazardous material, sufficient fire extinguishers, rubbish containment, protective equipment, heating equipment placement, three way warning sign, electrical wiring and the "person in charge requirements" (§ 154.100(d)); a more extensive training and qualification program for persons in charge (§ 154.710(c)); containment under each hose connection during coupling, uncoupling, and transfer (§ 154.530(a)(3)); and three way warning signs (§ 154.735(v)).

However, other proposed revisions lessen the burden on industry in such areas as the use of the material safety data sheets rather than maintaining this information separately (§ 154.310(a)(5)); deletion of the requirement that transfer hoses have a minimum maximum allowable working pressure of 150 psi (§ 154.500(b)); and the deletion of the requirement for a facility to obtain a hot work permit (§ 154.735(l)).

Comments are requested on the cost of the small discharge containment proposed by § 154.530(a)(3); the additional requirements for mobile facilities proposed by § 154.100(d); and the training and qualification program for persons in charge proposed by § 154.710(c) and the overall cost of all of the proposed regulations to consumers. Comments are also solicited on the cost saving from deleting the requirement that transfer hoses have a minimum, maximum allowable working pressure of 150 psi (§ 154.500(b)).

In consideration of the additions and deletions to part 154 and 156 it is estimated that the annual net cost to all facilities, would be \$7,665,971, where capital costs are incurred over a five year period.

The overriding benefit to industry and the Coast Guard of the proposed rules would be the establishment of rules that are easier to understand and that would therefore facilitate and foster industry compliance, leading to a higher level of environmental protection.

The direct monetary benefit of increased protection would come from the reduction of spills resulting from facility operations. These proposed regulations are designed to achieve an overall reduction of oil and hazardous materials spilled into the water from

facilities by 20%. The weighted average of the annual volume of bulk oil and hazardous material spilled from 1987–1991 from facilities was 436,147 gallons. The estimated costs of spill cleanup, third party damages, and natural resource damages resulting from this volume totals \$8,722,940. A 20% reduction will give an annual benefit of \$1,744,588.

Comparing the monetary benefits of the proposed provisions against the compliance cost to industry, the annual cost of the regulations is estimated to be \$5,921,383.

### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The majority of facilities are owned by large corporations. The new requirements proposed by this NPRM, measured against the proposed relief from other requirements currently in effect, will result in a negligible cost increase for facilities that presently comply with part 154.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal will economically affect it.

### **Collection of Information**

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains new collection-of-information requirements in the following sections: § 154.310,

§ 154.710 and § 154.560. The following particulars apply:

*DOT No.*: 2115.

*OMB Control No.*: 2115-0078.

*Administration*: U.S. Coast Guard.

*Title*: Changes to regulations covering Facilities Transferring Oil or Hazardous Materials in Bulk.

*Need for information*: It is proposed that information presently kept separately, now be kept in the same location as the operations manual by § 154.740. However, little new information is required and since it is proposed that the information be kept with the operations manual, not in it, no additional review requirements are proposed. Maintaining all records in one location where it is readily assessable will encourage facility owners and operators to be better prepared and thereby help to prevent spills and accidents resulting from improper procedures. Also, consolidation of the information with the operations manual will assist Coast Guard enforcement personnel in performing their duties in an efficient and effective manner. Section 154.710 would require a facility to submit a training program for persons in charge to the COTP for review and approval. Training programs are necessary to ensure the competency of the personnel filling this critical position. The proposal allows facility operators the flexibility of designing a program that meets their needs.

*Proposed use of information*: To determine regulatory compliance.

*Frequency of response*: Occasional and annual.

*Burden estimate*: 7,258.

*Respondents*: 3,130 operators of bulk oil and hazardous material transfer facilities.

*Form(s)*: Not applicable.

*Average burden hours per respondent*: 1.9

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under ADDRESSES.

## Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The Coast Guard intends to preempt State and local law only to the extent that compliance with the State law

would preclude compliance with these proposed requirements.

## Environment

The Coast Guard considered the environmental impact of this proposal and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and a draft Finding of No Significant Impact are available in the docket for inspection or copying where indicated under ADDRESSES.

The majority of the proposed changes are administrative in nature and involve the maintenance of records and descriptions of procedures to be retained in the operations manual. Other proposed revisions involve changes in equipment or procedures that are designed to enhance environmental protection by attempting to prevent spills of oil and hazardous materials from bulk liquid facilities or minimize the effects of such occurrences. Therefore, these revisions should have only a positive affect upon the environment.

## List of Subjects

### 33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

### 33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR parts 154 and 156 as follows:

## PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIALS IN BULK

1. The authority citation for part 154 continues to read as follows:

**Authority**: 33 U.S.C. 1231, 1321 (j)(1)(C), (j)(5), (j)(6) and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

### Subpart A—General

2. In § 154.100, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

#### § 154.100 Applicability.

(a) This part applies to each facility that is capable of transferring oil or hazardous material, in bulk, to or from a vessel, where the vessel has a total capacity, from a combination of all bulk products carried, of 250 barrels or more.

This part does not apply to the facility when it is in a caretaker status.

\* \* \* \* \*

(d) The following sections of this part apply to mobile facilities:

- (1) Section 154.107 Alternatives.
- (2) Section 154.108 Exemptions.
- (3) Section 154.110 Letter of intent.
- (4) Section 154.120 Facility examinations.

(5) Section 154.300 Operations manual: General.

(6) Section 154.310 Operations manual: Contents. Paragraphs (a)(2) through (a)(7), (a)(9), (a)(12), (a)(14) through (17), (a)(20) through (24), (c), and (d).

(7) Section 154.320 Operations manual: Amendment.

(8) Section 154.325 Operations manual: Letter of adequacy.

(9) Section 154.500 Hose assemblies. Paragraphs (a)(1), (b)(1), (c), (d)(1) through (3), and (e)(1) through (4).

(10) Section 154.530 Small discharge containment. Paragraphs (a)(1) through (2), and (d).

(11) Section 154.545 Discharge containment equipment.

(12) Section 154.550 Emergency shutdown.

(13) Section 154.560 Communications.

(14) Section 154.570 (c) and (d) Lighting.

(15) Section 154.700 General.

(16) Section 154.710 Persons in charge: Designation and qualification.

(17) Section 154.730 Persons in charge: Evidence of designation.

(18) Section 154.735 Safety requirements. Paragraphs (a) through (d), (f) through (g), (i), (j)(1) through (2), (k)(1) through (2), (l) through (m), (o) through (q), (r)(1) through (3), (s), and (u) through (v).

(19) Section 154.740 Records. Paragraphs (a) through (f).

(20) Section 154.750 Compliance with operations manual.

3. In § 154.105, the following definition *Caretaker status* is added in alphabetical order, and the definitions of *Facility*, and *Transfer* are revised, to read as follows:

#### § 154.105 Definitions.

\* \* \* \* \*

*Caretaker status* denotes a facility where all piping, storage tanks, and related equipment is completely free of oil or hazardous material; that has been certified as being gas free; where piping terminating near any body of water has been blanked; and where the letter of adequacy has been suspended by the COTP upon request of the facility.

\* \* \* \* \*

*Facility* means either an onshore or offshore facility and includes, but is not limited to, structures, equipment, and appurtenances thereto, used or capable of being used to transfer oil or hazardous material to or from a vessel or public vessel. Also included are facilities that tank clean or strip and any floating structure that is an intricate part of the facility's operation. A facility includes Federal, State, municipal, and private facilities.

\* \* \* \* \*

*Transfer* means any movement of oil or hazardous material to, from, or within a vessel by means of pumping, gravitation, or displacement. A transfer is considered to begin when all connections are made so that such movement is possible, regardless of when the actual movement begins.

\* \* \* \* \*

4. In § 154.107, paragraph (b) is revised to read as follows:

**§ 154.107 Alternatives.**

\* \* \* \* \*

(b) The COTP takes final approval or disapproval action on the request, submitted in accordance with paragraph (a) of this section, in writing, within 60 days of receipt of the request.

5. In § 154.110, paragraph (b)(1) is revised to read as follows:

**§ 154.110 Letter of intent.**

\* \* \* \* \*

(b) \* \* \*

(1) The names, addresses, and telephone numbers of the facility operator and the facility owner;

\* \* \* \* \*

**Subpart B—Operations Manual**

6. In § 154.310, paragraphs (a)(2), (a)(5), (a)(7), (a)(16) and (a)(22) are revised and paragraph (a)(23) is added to read as follows:

**§ 154.310 Operations manual: Contents.**

(a) \* \* \*

(2) A physical description of the facility including a map of the facility, drawn to scale, showing the boundaries of the facility, mooring areas, transfer locations, control stations, wharfs, the extent and scope of piping subject to the tests required by § 156.170(c)(4) of this chapter, and the locations of safety equipment;

\* \* \* \* \*

(5) A copy of the Material Safety Data Sheet for each product transferred at the facility;

\* \* \* \* \*

(7) The names and telephone numbers of the qualified individual identified under § 154.1026 and the Coast Guard,

State, local, and other personnel who may be called by the employees of the facility in an emergency.

\* \* \* \* \*

(16) The maximum allowable working pressure (MAWP) of each loading arm, transfer pipe system, and hose assembly required to be tested by § 156.170 of this chapter, including the maximum relief valve setting (or maximum system pressure when relief valves are not provided) for each transfer system;

\* \* \* \* \*

(22) Statements explaining that each hazardous materials transfer hose is marked with either the name of each product which may be transferred through the hose or with letters, numbers or other symbols representing all such products and the location in the operations manual where a chart or list of symbols used and a list of the compatible products which may be transferred through the hose can be found for consultation before each transfer; and

(23) For facilities that tank clean or strip, a description of their procedures.

\* \* \* \* \*

7. In § 154.320, paragraph (a)(1) is revised to read as follows:

**§ 154.320 Operations manual: Amendment.**

(a) \* \* \*

(1) The COTP will notify the facility operator in writing of any inadequacies in the operations manual. The facility operator may submit written information, views, and arguments regarding the inadequacies identified, and proposals for amending the manual, within 45 days from the date of the COTP notice. After considering all relevant material presented, the COTP shall notify the facility operator of any amendment required or adopted, or the COTP shall rescind the notice. The amendment becomes effective 60 days after the facility operator receives the notice, unless the facility operator petitions the Commandant to review the COTP's notice, in which case its effective date is delayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing via the COTP who issued the requirement to amend the operations manual.

\* \* \* \* \*

**Subpart C—Equipment Requirements**

8. In § 154.500, paragraphs (a) and (b) are revised to read as follows:

**§ 154.500 Hose assemblies.**

\* \* \* \* \*

(a) The minimum design burst pressure for each hose assembly must be at least four times the sum of the pressure of the relief valve setting (or four times the maximum pump pressure when no relief valve is installed) plus the static head pressure of the transfer system at the point where the hose is installed.

(b) The maximum allowable working pressure (MAWP) for each hose assembly must be more than the sum of the pressure of the relief valve setting (or the maximum pump pressure when no valve is installed) plus the static head pressure of the transfer system at the point where the hose is installed.

\* \* \* \* \*

9. Section 154.520 is revised to read as follows:

**§ 154.520 Closure devices.**

(a) Except as provided in paragraph (b) of this section, each facility to which this part applies must have enough butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP to blank off the ends of each hose or loading arm that is not connected for the transfer of oil or hazardous material. Such hoses must be blanked off during the transfer of oil or hazardous material.

(b) New, unused hose, and hose that has been cleaned and is gas free, is exempt from the requirements of paragraph (a) of this section.

10. In § 154.530, paragraph (a) is revised and paragraph (e) is added to read as follows:

**§ 154.530 Small discharge containment.**

(a) Except as provided in paragraphs (c), (d) and (e) of this section, each facility to which this part applies must have fixed catchments, curbing, or other fixed means to contain oil or hazardous material discharged in at least—

(1) Each hose handling area (that area on the facility that is within the area traversed by the free end of the hose or loading arm when moved from its normal stowed or idle position into a position for connection);

(2) Each hose connection manifold area; and

(3) Under each hose connection during coupling, uncoupling, and transfer.

\* \* \* \* \*

(e) Fixed or portable containment may be used to meet the requirements of paragraph (a)(3) of this section.

11. Section 154.540 is revised to read as follows:

**§ 154.540 Discharge removal.**

Each facility to which this part applies must have a means to safely



remove discharged oil or hazardous material, within one hour of its release, from the containment required by § 154.530 without discharging the oil or hazardous material into the water.

12. In § 154.545, paragraph (e) is added to read as follows:

**§ 154.545 Discharge containment equipment.**

\* \* \* \* \*

(e) Equipment and procedures maintained to satisfy the provisions of this chapter may be utilized in the planning requirements of subpart F of this part.

13. In § 154.560, paragraph (e) is revised to read as follows:

**§ 154.560 Communications.**

\* \* \* \* \*

(e) Portable radio devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be marked as intrinsically safe by the manufacturer of the device and certified as intrinsically safe by a national testing laboratory or other certification organization approved by the Commandant.

**Subpart D—Facility Operations**

14. In § 154.710, paragraphs (c) and (d), introductory text, (d)(7) and (d)(8) are revised and paragraph (d)(9) is added to read as follows:

**§ 154.710 Persons in charge: Designation and qualification.**

\* \* \* \* \*

(c) That person has completed a training program, established by the facility operator and approved by the Captain of the Port in accordance with §§ 154.720(a)(23) and 154.325, that provides the person with the knowledge and training necessary to properly operate the transfer equipment at that facility, perform the duties described in paragraph (d) of this section, follow the procedures required by this part, and fulfill the duties required of a person in charge during an emergency, except that for new facilities, the Captain of the Port may authorize alternative experience and training requirements and;

(d) The facility operator must certify that the person in charge has the knowledge and skills necessary to—

\* \* \* \* \*

(7) Follow local discharge reporting procedures;

(8) Carry out the facility's response plan for discharge reporting and containment; and

(9) Visually observe transfers continuously throughout the transfer operations to ensure compliance with

the procedures required by this part and be immediately available to the transfer personnel.

15. In § 154.735, the introductory text, paragraphs (l), and (s) through (t) are revised and paragraphs (u) through (w) are added to read as follows:

**§ 154.735 Safety requirements.**

Each operator of a facility to which this part applies shall ensure that the following safety requirements are met at the facility:

\* \* \* \* \*

(l) All welding or hot work conducted at the facility, or on any vessel moored to the facility, is the responsibility of the facility owner and operator.

\* \* \* \* \*

(s) Tank cleaning or gas freeing operations conducted by the facility on vessels carrying oil residues or mixtures shall be conducted in accordance with sections 8.1, 8.2, 8.3, and 8.5 of the International Safety Guide for Oil Tankers and Terminals (ISGOTT). Except that—

(1) Prohibitions in ISGOTT against the use of recirculated wash water do not apply if the wash water is first processed to remove product residues;

(2) The provision in ISGOTT section 8.2.10 concerning flushing the bottom of tanks after every discharge of leaded gasoline does not apply;

(3) The provision in ISGOTT section 8.2.11 concerning the removal of sludge, scale, and sediment does not apply if personnel use breathing apparatus which protect them from the tank atmosphere; and

(4) Upon the request of the facility owner or operator in accordance with § 154.107, the COTP may allow the use of alternative standards to ISGOTT if the COTP determines that the alternative standards provide an equal level of protection to the ISGOTT standards.

(t) Guards shall be stationed, or equivalent controls acceptable to the COTP shall be used, to detect fires, report emergency conditions, and ensure that access to the marine transfer area from the shoreside and waterside is limited to—

(1) Personnel who work at the facility including persons assigned for transfer operations, vessel personnel, and delivery and service personnel in the course of their business;

(2) Coast Guard personnel;

(3) Other Federal, State, or local governmental personnel; and

(4) Other persons authorized by the operator.

(u) Except for those specified in paragraphs (t)(1) and (2) of this section, no person is to be allowed into the

marine transfer area unless that person is identified by a facility-issued identification card or other identification card displaying his or her photograph, or is an escorted visitor displaying an identifying badge.

(v) Smoking shall be prohibited at the facility except that facility owners or operators may authorize smoking in designated areas if—

(1) The designated smoking areas are in accordance with local ordinances and regulations;

(2) Signs are conspicuously posted marking such authorized smoking areas; and

(3) "No Smoking" signs are conspicuously posted elsewhere on the facility.

(w) Warning signs shall be displayed on the facility at the point of transfer, without obstruction, at all times for fixed facilities and for mobile facilities during the coupling, transfer operation, and uncoupling. The warning signs shall conform to 46 CFR 151.45–2(e)(1) or 46 CFR 153.955.

16. In § 154.740, the introductory text and paragraph (b) are revised to read as follows:

**§ 154.740 Records.**

Each facility operator shall maintain in the same location as the operations manual and make available for examination by the COTP:

\* \* \* \* \*

(b) The name of each person designated as a person in charge of transfer operations at the facility and certification that the person in charge has completed the training requirements of § 154.710;

\* \* \* \* \*

**PART 156—OIL AND HAZARDOUS RING OIL OR HAZARDOUS MATERIALS IN BULK**

17. The authority citation for part 156 continues to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j)(1) (C) and (D); sec. 2, E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46. Subpart B also issued under 46 U.S.C. 3715(b).

**Subpart A—Oil and Hazardous Material Transfer Operations**

18. In § 156.120, the introductory paragraph is revised to read as follows:

**§ 156.120 Requirements for transfer.**

A transfer is considered to begin when a physical connection of any transfer hose or loading arm is made and no person shall conduct an oil transfer operation unless—

\* \* \* \* \*



19. In § 156.160, paragraph (c) is revised to read as follows:

**§ 156.160 Supervision by person in charge.**

\* \* \* \* \*

(c) No person shall transfer oil or hazardous material to or from a vessel unless each person in charge can visually observe the transfer operation continuously throughout the transfer and each person in charge is immediately available to the transfer personnel.

20. In § 156.170, paragraphs (c)(1)(iv) and (f)(1) are revised, paragraph (f)(2) is redesignated as (f)(3) and revised and new paragraphs (f)(2) and (h) are added to read as follows:

**§ 156.170 Equipment tests and inspections.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iv) Hoses not meeting the requirements of paragraph (c)(1)(i) of this section, may be acceptable after a static liquid pressure test is successfully completed in the presence of the COTP.

\* \* \* \* \*

(f) The frequency of the tests and inspections required by this section must be—

(1) For active facilities, annually or within 30 days of the first transfer conducted past one year from the date of the last tests and inspections;

(2) For a facility in caretaker status, within 30 days of the first transfer after the facility is removed from caretaker status; and

(3) For vessels, annually or as part of the biennial and mid-period inspections.

\* \* \* \* \*

(h) Upon the request of the owner or operator, the COTP may allow alternative methods of compliance to the testing requirements of paragraph (c) of this section if the COTP determines that the alternative methods provide an equal level of protection.

Dated: February 14, 1995.

**J.C. Card,**

*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 95-4405 Filed 2-22-95; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 261, 266 and 268**

[SW-FRL-5157-8]

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Extension of Comment Period**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is extending the comment period for the proposed rule on standards for the management and use of slag residues derived from HTMR treatment of K061, K062, and F006 wastes, which appeared in the **Federal Register** on December 29, 1994 (see 59 FR 67256). This extension of the comment period is provided to allow commenters an opportunity to finalize their data gathering efforts and comments to the Agency's proposal.

**DATES:** EPA will accept public comments on this proposed decision until April 14, 1995. Comments postmarked after the close of the comment period will be stamped "late."

**ADDRESSES:** The public must send an original and two copies of their comments to EPA RCRA Docket Number F-94-SRTP-FFFFF, room 2616 (Mail Code 5305), 401 M Street SW., Washington, DC 20460. The docket is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except on Federal holidays. Call (202) 260-9327 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at \$0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (703) 412-9810. For technical information concerning this notice, contact Narendra Chaudhari, Office of Solid Waste (Mail Code 5304), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-4787.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On December 29, 1994, EPA proposed to conditionally allow residual materials ("slags") resulting from the high temperature metal recovery (HTMR) treatment of specified hazardous wastes (i.e., electric arc furnace dust, steel finishing spent pickle liquor, and electroplating sludges) to be used in

road construction and as an anti-skid/deicing material on road surfaces. These slags are generated by HTMR units processing hazardous wastes solely for metal recovery pursuant to § 266.100(c)—in essence, devices processing particular hazardous wastes with high recoverable metal content, minimal hazardous organic constituents, and low BTU. EPA's proposal was based on the results of a risk assessment conducted for these HTMR slags. See 59 FR 67256 for a more detailed explanation of the Agency's proposed action. Of course, until this proceeding is concluded, EPA has made no final determination that any of these slag dispositions are safe.

On January 17 and January 24, 1995, the Agency received requests from two commenters to extend the comment period. Basically, these commenters are seeking additional time to thoroughly evaluate all aspects of the risk assessment used by EPA to support the proposed rule and also to prepare written comments based on their evaluations. Among the issues raised are whether the slags' total metal concentrations are adequately characterized, and whether risk to sensitive populations was adequately considered (see RCRA docket for the proposed rule). The Agency considered these commenters' requests and has decided to extend the comment period until April 14, 1995.

One issue not discussed in EPA's proposal is whether legitimate recycling is occurring (and, accordingly, whether § 266.20 even applies to these dispositions of the slags). See 59 FR 48026 (September 19, 1994). Such a determination typically involves a case-by-case consideration, and the agency has enumerated relevant factors which ordinarily play a part in that analysis. See, e.g., 53 FR 17606 (May 17, 1988). EPA made no such determination in the proposal, and does not intend to do so in this proceeding.

The public comment period for the proposed rule was originally scheduled to end on February 13, 1995. This notice extends the comment period for the proposed rule to allow commenters an opportunity to finalize their data gathering efforts and responses to the Agency's proposed decision.

Dated: February 9, 1995.

**Elizabeth A. Cotsworth,**

*Acting Director, Office of Solid Waste.*

[FR Doc. 95-4289 Filed 2-22-95; 8:45 am]

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